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C O N F I D E N T I A L SECTION 01 OF 02 BAGHDAD 000720

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TAGS: [ENRG](#) [EPET](#) [IZ](#)  
SUBJECT: HYDROCARBON LAW "COVER LETTER" AGREED, PATH  
CLEARED FOR CABINET APPROVAL

Classified By: Ambassador Zalmay Khalilzad for reasons 1.4 (b) and (d).

11. (C REL GBR) Summary. The Ambassador traveled to Lake Dokan on February 24 to get Kurdistan Regional Government (KRG) endorsement of a compromise text of the cover letter to the hydrocarbon framework law, setting the stage for approval of the draft law by the Council of Ministers (CoM) at a meeting scheduled for February 26. The agreement reached at Dokan was confirmed in writing by the KRG Prime Minister on February 25 ) complete agreed text of the cover letter below. Despite broad agreement in the cabinet on the hydrocarbon draft, the cover letter proved difficult to agree, taking over a week to resolve and ultimately involving intensive brokering by the Ambassador. End summary.

12. (C REL GBR) The framework law was approved in principle as early as February 16, but then got hung up on a cover letter ) originally advanced by the KRG - describing the conditions under which the law was to go forward to the Council of Representatives (CoR), and most importantly, whether contracts negotiated in the interim until the law's adoption would be legally valid. The Kurds had long argued that the central government could hold up Kurdish contracts for as much as a year given the uncertain prospects for approval of the series of at least four laws covering the hydrocarbon regime framework, revenue-sharing, the creation of the Iraq National Oil Company and the re-structuring of the Oil Ministry. Consequently, the Kurds wanted assurances that any contracts they negotiated between now and the implementation of the law would be approved, as long as such contracts were consistent with the draft framework law and model contract principles. Oil Minister Shahrastani countered with a proposal of a moratorium on any contract signings, leading to protracted wrangling over the formulation, with the Ambassador acting as a mediator over several days between the Kurdish side and Maliki and Shahrastani.

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Agreement at Lake Dokan, Next Steps  
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13. (C REL GBR) Finally, on February 24, the Ambassador made a quick trip to Lake Dokan where the KRG politburo was holding meetings, and which was consequently attended by the full Kurdish leadership. This discussion produced an agreement on the text of the cover letter, accepting a formulation based on language provided February 22 by KRG President Massoud Barzani. The formulation clarified the conditions under which parties would be authorized to conclude contracts negotiated in the interim until full legal implementation (Article 5 below). This clause is effective in the case the laws are not passed by the end of May. Nechirvan's letter and the text of the cover letter will be sent to NEA/I. There is an additional point in the cover letter which says that if the deadline isn't reached, the PM and the President of the KRG can agree to extend the deadline.

¶4. (C REL GBR) Once this text was agreed between the Ambassador and the senior Kurdish leadership, Presidents Talabani and Barzani joined the Ambassador in a phone call to Maliki, who agreed to the slight changes made. The Ambassador followed up this agreement in a meeting with Maliki on February 25 to confirm that a Cabinet meeting would take place soonest to formalize the decision to send the text to the CoR. Maliki, who had planned the cabinet meeting for the 27th, agreed to hold it on the 26th and signaled his satisfaction with the compromise on the cover letter. The Kurds had announced the agreement at their joint press conference already on the 25th. GoI DPM Barham Salih said the discussion of the agreement among the Kurds was very positive for those, like him, who are in favor of working to promote Kurdish interests in cooperation with Baghdad rather than through confrontation, so the positive political benefits of reaching an agreement seem to be reinforcing moderate forces.

¶5. (C REL GBR) Comment. Resolving the impasse on the cover letter required intensive personal diplomacy. The reluctance of the parties to agree over quite minor differences in the text reflects the lack of trust that existed between the KRG and especially Minister Shahrastani. Approval by the CoM should go a long way to reversing this mistrust, and in any event, provide positive momentum for concluding the rest of the hydrocarbon legislation package. End comment.

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Agreed Text of the Hydrocarbon Law Cover Letter  
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¶6. (C REL GBR)  
"Recognizing the importance of legislating a law for oil and gas to enhance the benefit derived from the oil wealth for

BAGHDAD 00000720 002 OF 002

all components of the Iraqi people and to constitute a firm pillar for the unity of Iraqis and the coherence of their structure, the Iraqi Government submits this draft law to the Council of Representatives for the management of oil operations on institutional basis taking into consideration the full application of articles 111 and 112 of the Constitution, which makes the oil and gas wealth a property of all Iraqis consistent with the federal nature approved by the Constitution, and to achieve the highest benefit for the Iraqi people in a way that gives greater importance to national interest, and allows for the development of this important sector in a manner that motivates private investments, transfer of skills and technologies which requires legislative and political stability in the oil sector to ensure the flow of investments and skills.

The legislation of this law is a huge national accomplishment for all Iraqis and their sincere forces which contributed to its drafting and will have a positive and decisive effect on strengthening the fabric of all components of the Iraqi people. The supreme interests of Iraq are the main reasons for the legislation of this law and are the principal criteria upon which the government relied in approving it.

The technical and legal considerations which governed the articles of this law in all of its details and was based on public national considerations and strived to grasp it fully and to create the necessary legislative and technical environment for growth and prosperity of this vital sector for the benefit of the nation and the citizen which is the firm goal that led the government in this lofty national endeavor and which we present as a gift to all Iraqis.

Accordingly, the following procedures shall be taken in order to complete the organization of the oil and gas extraction sector in Iraq.

¶1. This Law of Oil and Gas with its four appendixes shall be submitted to COR after agreement on conditions and general principals for the criteria and model contracts

simultaneously with the draft law of the Management of Financial Resources. The parties shall work to accomplish this before the 15th of March, 2007.

¶2. The draft law of the National Oil Company and the law of the Oil Ministry shall be accomplished in a way that is consistent and in harmony with the texts and the provisions of this law. Also, it is necessary for the draft law of oil and gas in the Region of Kurdistan to be in harmony with the text and provisions of the Federal Law of Oil and Gas and in agreement with the Constitution.

¶3. Execution of oil operations and granting contract licenses for production and exploration in the areas covered by the provisions of Article 140, in which administrative changes in its borders may take place, except for oil operations of the National Oil Company which will continue in the current producing fields according to the Constitution, shall be suspended.

¶4. All parties shall commit to refrain from concluding any contracts or entry into new obligations in the exploration and production activity in all Iraqi territories and until this Law enters into force.

¶5. The Federal Government shall work in coordination with the Government of the Region to complete the requirements of enforcement of the Law and to activate the commissions and structures stipulated in the Law within a period not to exceed the end of May 2007. If this date is exceeded, the Prime Minister of Iraq and the President of the region of Kurdistan shall meet to look for ways of accomplishing this within one month and finding a solution on the basis of one of the following options:

A- In the case paragraph five above is not implemented until May 31, 2005, the two parties shall have the right to conclude exploration, development and production contracts in accordance with what is stated in the Constitution and the provisions of the draft Law of Oil and Gas and the general principals for the criteria of model contracts.

B- To extend the period mentioned in the paragraph above."  
KHALILZAD